

1 HONORABLE RICHARD A. JONES
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

IN RE CLASSMATES.COM
CONSOLIDATED LITIGATION

MASTER CASE NO. C09-45RAJ

DECLARATION OF JENNIFER M.
KEOUGH REGARDING STATUS OF
SETTLEMENT DISTRIBUTION

JENNIFER M KEOUGH declares and states as follows:

1. I am Chief Operating Officer of The Garden City Group, Inc. (“GCG”). The following statements are based on my personal knowledge and information provided by other experienced GCG employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

2. GCG was selected by the parties to serve as the Settlement Administrator in the above-captioned action (the “Action”) and to carry out the duties described in the Revised Class Action Settlement Agreement, Dkt. No. 134-1 (the “Revised Settlement Agreement”) finalized on July 8, 2011, as amended on December 7, 2011, Dkt. No. 183-1, and approved in the Court’s

1 Order filed on June 15, 2012, Dkt. No. 211 (“Order”), and Order Certifying Settlement Class and
 2 Approving Class Action Settlement, Dkt. No. 212 (“Order Approving Settlement”), also filed on
 3 June 15, 2012. I submit this Declaration in order to provide the Court and the parties to the
 4 Action with an update regarding the status of the distribution of settlement funds to class
 5 members who submitted Valid Claim Forms (“Claimants”). In total, 699,053 Claimants
 6 submitted Valid Claim Forms.
 7

8 3. Pursuant to the Court’s Order, on October 15, 2012, GCG received \$2,753,000.00
 9 in settlement funds from the Defendants for distribution to the 699,053 Claimants. On their
 10 Claim Forms, 589,334 of 699,053 Claimants requested to receive their cash settlement via check.
 11 The remaining 109,719 Claimants requested to receive their cash settlement via PayPal.¹ GCG
 12 arranged for each Claimant to receive a \$3.93 cash award (\$2,753,000.00 distributed equally
 13 between the 699,053 Claimants) via their chosen payment method.
 14

15 4. On October 19, 2012, pursuant to the Court’s Order, Order Approving Settlement,
 16 and Paragraphs 12.3 and 12.4 of the Revised Settlement Agreement, GCG mailed 589,334
 17 checks in the total amount of \$2,316,082.62 to Claimants that requested to receive their cash
 18 payment via check. As of December 12, 2012, of the 589,334 checks issued, a total of 414,401
 19 checks in the total amount of \$1,628,595.93 have been cashed; 14,929 checks totaling
 20 \$58,670.97 were returned to GCG by the United States Postal Service as undeliverable without
 21 forwarding address information;² and 160,004 checks totaling \$628,815.72 remain uncashed.
 22

23 5. On October 19, 2012, pursuant to the Court’s Order, Order Approving Settlement,
 24 and Paragraphs 12.3 and 12.4 of the Revised Settlement Agreement, GCG began the process of
 25

26 ¹ Paragraph 12.3 of the Revised Settlement Agreement gave Claimants the opportunity to select
 27 whether to receive payment via PayPal or via check.
 28 ² As described in Paragraph 8 of this Declaration, funds from undeliverable checks will be
 distributed as part of *cy pres* awards pursuant to Paragraph 12.9 of the Revised Settlement
 Agreement.

1 delivering 109,719 cash payments worth a total of \$431,195.67 to Claimants via PayPal. The
2 process of delivering payments to Claimants via PayPal was completed on November 8, 2012.
3 As of December 12, 2012, GCG can confirm that 103,295 cash payments totaling \$405,949.35
4 sent to Claimants via PayPal were claimed, and 3,975 cash payments totaling \$15,621.75 were
5 unclaimed. Additionally, as PayPal has a feature that allow users to accept payments and then
6 refund them, cash payments to 233 Claimants totaling \$915.69 were claimed and then refunded.
7 Finally, cash payments to 2,216 Claimants totaling \$8,708.88 failed. Payments to Claimants
8 failed because the PayPal account emails provided by the Claimants were either invalid or the
9 PayPal accounts associated with the provided emails were closed or no longer existed.

10 a. On November 19, 2012, GCG issued checks to the 2,210 Claimants
11 whose payments via PayPal initially failed. As of December 12, 2012, of the 2,210 checks
12 issued, 756 checks totaling \$2,971.08 have been cashed; 153 checks totaling \$601.29 have been
13 returned by the United States Postal Service as undeliverable without forwarding address
14 information; and 1,301 checks totaling \$5,112.93 remain uncashed.

15 b. On December 13, 2012, GCG issued checks to the 3,975 Claimants
16 whose cash payments via PayPal were unclaimed and issued six checks to Claimants whose
17 cash payments via PayPal failed after November 19, 2012.

18 c. In the week ending December 21, 2012, GCG will issue checks to the
19 233 Claimants who refunded their cash payments after initially accepting them.

20
21
22
23
24
25
26
27
28

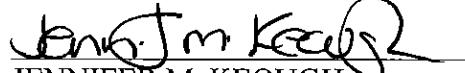
1 6. GCG reissues checks upon the written request from Claimants for situations such
2 as checks being misplaced or lost by the Claimant.³ GCG handles sets of reissued checks every
3 two weeks. To date, GCG has received 30 such requests and has reissued 29 such checks. GCG
4 will handle the outstanding reissue request in the coming week.

5 7. As all settlement checks have a 90-day stale date,⁴ GCG currently estimates that
6 all checks will either be cashed or go stale, and the distribution to all Claimants will thus be
7 completed in late March, 2013.

8 8. Pursuant to Paragraph 12.9 of the Revised Settlement Agreement, GCG will be
9 prepared to issue *cy pres* awards comprising the amount of funds from uncollected or
10 undeliverable checks upon completion of the distribution process.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct.

13 Executed this 14th day of December, 2012, at Seattle, Washington.

14
15
16
17 
18 JENNIFER M. KEOUGH

19
20
21
22
23
24
25 ³ GCG takes certain steps to ensure that a Claimant is not receiving the cash value of the check
26 more than once. Prior to reissuing a check, GCG confirms that the check claimed as lost or
misplaced was not cashed by the Claimant. Once a check is reissued, GCG stops payment on the
misplaced or lost check.

27 ⁴ See Revised Settlement Agreement, Paragraph 12.9 ("Settlement Class members who receive a
28 physical check pursuant to Paragraph 12.3. above shall have ninety (90) calendar days within
which to cash the issued check.").